IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 22ND JANUARY 2007 / 2ND MAGHA 1928

Crl.MC.No. 139 of 2007()

(C.C.NO.103/05 OF J.F.C.M. COURT V, KOZHIKODE)

PETITIONER:

NASEEMA, AGED 35 YEARS
D/O. ALI, VAYALILAKATH PARAMBA
NADUVATTOM AMSOM AND DESOM
BEPORE, KOZHIKODE DIST.

BY ADV. SRI.MANJERI SUNDERRAJ

RESPONDENTS:

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1. V.K. MOIDEENKOYA, AGED 45 YEARS
   S/O. ABDULLA, PALLINILAM PARAMBA
   PUTHIYAPALAMA, KASABA AMSOM AND DESOM
   KOZHIKODE DIST.

2. STATE OF KERALA, REP. BY PUBLIC PROSECUTOR
   HIGH COURT OF KERALA, ERNAKULAM.

R1 BY ADV. SRI.A.KRISHNAN
R2 BY PUBLIC PROSECUTOR SMT. LATHA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 22/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 139 of 2007

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Dated this the 22nd day of January, 2007

O R D E R

The petitioner herein is the defacto complainant in a prosecution under Sections 406 and 498A I.P.C. Cognizance has been taken on the basis of a final report submitted by the police. Investigation, in turn, was initiated on the basis of the complaint filed by the petitioner herein against the first respondent, her husband. The parties have come before this Court with a joint request that the prosecution initiated against the first respondent may be quashed in as much as the parties have settled their disputes amicably and started separate residence. The offences alleged are non-compoundable. But it is prayed that applying the dictum in **B.S. Joshi** v. **State of Haryana** (AIR 2003 SC 1386) this Court may be pleased to quash the proceedings under Section 482 Cr.P.C.

2. The decision in **B.S. Josh**i is authority for the proposition that at times the interests of justice may transcend the interests of mere law. I am satisfied in the facts and circumstances and on the basis of the submissions made jointly by the learned counsel for the

petitioner and the first respondent that this is a fit case where such powers under Section 482 Cr.P.C. can be invoked in the interests of justice as requested, notwithstanding the fact that the offence alleged is not compoundable.

5. This Crl.M.C. is hence allowed. C.C.No.103 of 2005 pending before the J.F.C.M. Court - V, Kozhikode is hereby quashed.

(R. BASANT)
Judge

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